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Patent Number**Inventor:** Matthew W. Starks et al.**MESSAGE TO:** US Patent and Trademark Office**FAX NUMBER:** (571) 273-8300**FROM:** RADER, FISHMAN & GRAUER PLLC

Charles A. Bieneman

PHONE: (248) 594-0648**Attorney Dkt. #:** 65856-0054**PAGES (Including Cover Sheet):** 35**CONTENTS:** Fee Transmittal (1 page)
Appeal Brief Transmittal (2 pages - in duplicate)
Appeal Brief (30 pages)
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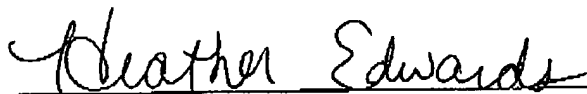
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Attorney Docket No.: 65856-0054

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| Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005 | | Complete if Known Application Number 10/780,087-Conf. #9884 Filing Date February 17, 2004 First Named Inventor Matthew W. Starks Examiner Name T. M. Beamer Art Unit 2681 Attorney Docket No. 65856-0054 | |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27 | | | |
| TOTAL AMOUNT OF PAYMENT (\$) 500.00 | | | |

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| FEE CALCULATION | | | | | | | |
|---|---------------------|---|----------------------|----------------------------------|------------------|-----------------------|-----------------------|
| 1. BASIC FILING, SEARCH, AND EXAMINATION FEES | | | | | | | |
| Application Type | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | Fees Paid (\$) |
| | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | Fee (\$) | Small Entity Fee (\$) | |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |
| 2. EXCESS CLAIM FEES | | | | | | | |
| Fee Description | | | | | | | Small Entity Fee (\$) |
| Each claim over 20 (including Reissues) | | | | | | | 50 |
| Each independent claim over 3 (including Reissues) | | | | | | | 200 |
| Multiple dependent claims | | | | | | | 360 |
| <u>Total Claims</u> | <u>Extra Claims</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> | <u>Multiple Dependent Claims</u> | | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> |
| - = | x | = | | | | | |
| <u>Indep. Claims</u> | <u>Extra Claims</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> | | | | |
| - = | x | = | | | | | |
| 3. APPLICATION SIZE FEE | | | | | | | |
| If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | | | | |
| <u>Total Sheets</u> | <u>Extra Sheets</u> | <u>Number of each additional 50 or fraction thereof</u> | <u>Fee (\$)</u> | <u>Fee Paid (\$)</u> | | | |
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| Non-English Specification, \$130 fee (no small entity discount) | | | | | | | |
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| TRANSMITTAL OF APPEAL BRIEF | | | Docket No. 65856-0054 |
|--|----------------------------------|------------------------------|--------------------------|
| In re Application of: Matthew W. Starks et al. | | | |
| Application No. 10/780,087-Conf. #9884 | Filing Date February 17, 2004 | Examiner T. M. Beamer | Group Art Unit 2681 |
| Invention: WIRELESS MEASUREMENT DEVICE | | | |
| <u>TO THE COMMISSIONER OF PATENTS:</u> | | | |
| Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed: <u>January 19, 2006</u> | | | |
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|  Charles A. Bieneman Attorney Reg. No. : 51,472 RADER, FISHMAN & GRAUER PLLC 39533 Woodward Avenue, Suite 140 Bloomfield Hills, Michigan 48304 (248) 594-0648 | | Dated: <u>March 17, 2006</u> | |

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Dated: March 17, 2006

Signature: Heather Edwards
(Heather Edwards)

Docket No.: 65856-0054
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Matthew W. Starks et al.

Application No.: 10/780,087

Confirmation No.: 9884

Filed: February 17, 2004

Art Unit: 2681

For: WIRELESS MEASUREMENT DEVICE

Examiner: T. M. Beamer

APPEAL BRIEF

Mail Stop Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This appeal is from the decision of the Primary Examiner dated October 26, 2005 ("Final Office Action"), finally rejecting claims 1-37, which are reproduced as an Appendix to this brief. The Notice of Appeal was filed on January 19, 2006. This application was filed on February 17, 2004.

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I. REAL PARTY IN INTEREST

The real party in interest for this appeal is: Eaton Corporation, a Corporation organized under and pursuant to the laws of Ohio having its principal place of business at Eaton Center, 1111 Superior Avenue, Cleveland, Ohio 44114-2584.

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II. RELATED APPEALS AND INTERFERENCES

Applicants (hereinafter "Appellants") are not aware of any related appeals or interferences that would affect the Board's decision on the current appeal.

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III. STATUS OF CLAIMS

Claims 1-37 are pending. Claims 1, 12, and 26 are independent claims. All pending claims, reproduced in the Claims Appendix attached hereto, were rejected in the Final Office Action and are the subject of this appeal.

In the Final Office Action, claims 1, 3-10, 30, 31 and 35 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. 6,266,527 ("Mintz") in view of U.S. 6,819,924 ("Ma"). Claims 12, 13, 19-29, 32-34, and 36-37 were rejected under Section 103 as allegedly unpatentable over the combination of U.S. Pub. 2002/0119769 ("Heinonen") and Ma. Claim 2 was rejected under Section 103 as allegedly unpatentable over Mintz, Ma and Heinonen. Claim 11 was rejected under Section 103 as allegedly unpatentable over Mintz and Ma. Claims 13-18 were rejected under Section 103 as allegedly unpatentable over Heinonen and Ma.

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IV. STATUS OF AMENDMENTS

In their Amendment After Final Action dated December 19, 2005, filed in response to the Final Office Action, Appellants amended claim 30. However, the Advisory Action dated January 6, 2006 stated that the amendment would not be entered for purposes of appeal.

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V. SUMMARY OF CLAIMED SUBJECT MATTER

The present application includes claims directed to receiving, in a remote device through wireless communications, measurements from sensors attached to components in a piece of equipment, such as a vehicle. The following is a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, as required by 37 C.F.R. § 41.37(c)(1)(v). The following explanation is not intended to be used to construe the claims, which are believed to speak for themselves, nor do Appellants intend the following explanation to modify or add any claim elements, or to constitute a disclaimer of any equivalents to which the claims would otherwise be entitled. References to the Specification herein are intended to be exemplary and not limiting.

A. Claim 1

Independent claim 1 recites a system for viewing measurements remotely. The system comprises a processor that is connected to a wireless communications device, the processor and the wireless communications device being external to an equipment. For example, with reference to Figure 1A, the Specification discloses a processor 102 and an RF modem 106 (Specification, page 3, lines 8-9), that is remote from an equipment such as a vehicle. (Specification, page 4, lines 11-13.) Further, the processor of claim 1 is programmed to retrieve at least one measurement from at least one measurement device via the wireless communications device. For example, still with reference to Figure 1A, software instructions loaded into RAM 104 from ROM 105 or some external medium are executable by processor 102 for configuring and retrieving data from at least one of measurement devices 120a, 120b, . . . , 120n attached to at least one of sensors 122a, 122b, . . . , 122n. (Specification, page 3, lines 23-26.)

B. Claim 12

Independent claim 12 recites a system comprising at least one sensor that provides at least one output related to a component in an equipment. For example, with reference to Figure 1A, the Specification explains that sensor 122 comprises either a gauge or a transducer such as may measure vehicle speed, or the pressure or temperature of a vehicle component 123. (Specification, page 3, lines 28-32.) Further, the system of claim 12 comprises at least one measurement device comprising a processor programmed to (1) receive as an input the output from the sensor and (2) wirelessly communicate with a remote device that is external to the equipment. For example,

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Figure 1B shows a measurement device 120 comprising a measurement processor 126. (Specification, page 4, lines 1-2, 7-8.) Measurement device 120 may receive a signal provided by sensor 122. (Specification, page 6, lines 9-10.) Software instructions loaded into RAM 128 from ROM 130 are executable by the processor for recording, configuring, and sending information to a remote device 100. (Specification, page 4, lines 9-10).

C. Claim 26

Independent claim 26 recites a system for viewing measurements remotely, comprising a first processor that is connected to a wireless communications device. For example, with reference to Figure 1A, the Specification discloses a processor 102 and an RF modem 106. (Specification, page 3, lines 8-9.) At least one sensor provides at least one output related to a component in an equipment. For example, with reference to Figure 1A, the Specification explains that sensor 122 comprises either a gauge or a transducer such as may measure vehicle speed, or the pressure or temperature of a vehicle component 123. (Specification, page 3, lines 28-32.)

Further, at least one measurement device comprising a second processor programmed to (1) receive an input from the sensor and (2) wirelessly communicate with the first processor. For example, Figure 1B shows a measurement device 120 comprising a measurement processor 126. (Specification, page 4, lines 1-2, 7-8.) Measurement device 120 may receive a signal provided by sensor 122. (Specification, page 6, lines 9-10.) Software instructions loaded into RAM 128 from ROM 130 are executable by the processor for recording, configuring, and sending information to a remote device 100. (Specification, page 4, lines 9-10). The first processor is external to the equipment (Specification, page 4, lines 11-13) and is programmed to retrieve measurements from the measurement device via the wireless communications device. For example, with reference to Figure 1A, software instructions loaded into RAM 104 from ROM 105 or some external medium are executable by processor 102 for configuring and retrieving data from at least one of measurement devices 120a, 120b, . . . , 120n attached to at least one of sensors 122a, 122b, . . . , 122n. (Specification, page 3, lines 23-26.)

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VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. That claims 1, 3-10, 11, 13-18, 30, 31 and 35 are unpatentable under Section 103 over Mintz in view of Ma.
2. That claims 12, 13-18, 19-29, 32-34, and 36-37 are unpatentable under Section 103¹ over Heinonen in view of Ma.
3. That claim 2 is unpatentable under Section 103 over Mintz, Ma and further in view of Heinonen.

¹ The Final Office Action States that "[C]laims 12, 13-18, 19-29, 32-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Heinonen . . . in view of Ma." (Final Office Action, page 5.) However, it is clear that the rejection of the foregoing claims was actually made under Section 103(a), not Section 102(b), and the rejection is treated accordingly in this Appeal Brief.

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VII. ARGUMENT

All pending claims stand rejected as allegedly obvious under 35 U.S.C § 103(a). These rejections should be reversed at least because the Examiner has not met his burden of stating a prima facie case of obviousness with respect to Appellants' claims. It is well settled that

[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

MPEP § 2143. Further, "[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Appellant's disclosure." Id. (citing In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Here, the Examiner has failed to show that the cited references teach or suggest all the claim limitations, much less that one of ordinary skill in the art would have been motivated to combine the cited references. For example, as detailed below, the Examiner has, among other things, taken the position that receiving raw data reads on receiving data from a measurement device, that air is "equipment," and that an RF signal is "a component in an equipment." Similarly, the Examiner has stated motivations to combine references, e.g., "for the purpose of allowing the measured information to be shared throughout the system," without providing any support for the alleged motivation in the prior art of record, without explaining what "system" one of ordinary skill would have sought to improve, and without explaining how or why one of ordinary skill would have seen such motivation as relevant to Appellants' claim limitations. As illustrated by the foregoing examples, it is clear that the prior art of record fails to teach or suggest the limitations of Appellants' claims. Because these and the Examiner's other positions discussed herein below are improper, Appellants respectfully submit that all pending rejections should be reversed.

A. Ground of Rejection No. 1: Independent Claim 1 And The Claims Depending Therefrom (Claims 2-11, 30-31, and 35) Are Patentable.

Claim 1 stands rejected as allegedly obvious over Mintz in view of Ma. However, for at least the following reasons, the Examiner has failed to state, and could not maintain, a prima facie

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case of obviousness regarding claim 1. Accordingly, claim 1, and all claims depending therefrom, are in condition for allowance.

1. **The prior art of record fails to teach or suggest a “processor . . . programmed to retrieve at least one measurement from at least one measurement device.”**

The Final Office Action (page 2) contended that Mintz teaches the claim limitation in claim 1 of “wherein the processor is programmed to retrieve at least one measurement from at least one measurement device via the wireless communications device.” However, Mintz includes no teaching or suggestion of a “measurement device” as required by claim 1 and accordingly cannot teach or suggest the foregoing claim limitation.

As shown in Appellants’ Figures 1A and 1B, a measurement device 120 is attached to a sensor 122 that is in turn associated with a component 123. The measurement device 120 includes a measurement processor 126 and wirelessly communicates, including communications of measurements, with a remote device 100 that includes a processor 102. (Specification, para. 14.) Clearly, the processor of claim 1 does not itself make any measurement. Claim 1 plainly presumes that the measurement device will perform any processing necessary to derive a measurement, which measurement the processor retrieves from the measurement device.

Mintz, in contrast to claim 1, teaches transmitting raw data – not measurements – to a remote computer which then makes measurements based on the raw data. Specifically, Mintz discloses a remote “base station” which receives commands from a mobile terminal to start and stop making measurements of power and bit error rate from data received from the mobile terminal. (E.g., Mintz, col. 3, lines 6-16.) Mintz does not teach or suggest a measurement device at all associated with the mobile terminal, nor does Mintz teach or suggest sending measurements to the remote computer. Indeed, Mintz teaches away from the recited measurement device because Mintz teaches that all measurements are performed by his base station, which receives raw data. Thus, Mintz has no need for the measurement device recited by claim 1, and teaches away from “the processor programmed to retrieve at least one measurement from at least one measurement device via the wireless communications device” as is required by claim 1.

Ma does not make up for the deficiencies of Mintz. Ma discloses “[a] quality measurement unit that conveniently attaches to equipment under test [and] identifies and evaluates [the] quality of recovered test signals communicated from a remote device, or a test signal communicated by the

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equipment under test.” (Ma, Abstract.) Ma’s local quality measurement unit (LQMU) at most receives test signals from a remote reference data storage unit (Ma, col. 3, lines 13-17), Ma contains absolutely no teaching or suggestion of the LQMU sending measurements to any processor, much less a processor connected to a wireless communications device, as is required by claim 1. In sum, Ma, like Mintz, fails to teach or suggest the claim limitation in claim 1 of “wherein the processor is programmed to retrieve at least one measurement from at least one measurement device via the wireless communications device.”

For at least the foregoing reasons, claim 1, and also claims 2-11, 30-31, and 35 depending therefrom, are all in condition for allowance.

2. **Mintz and Ma could not and would not have been combined to suggest “the processor and the wireless communications device being external to an equipment.”**

Claim 1 includes the requirement of “the processor and the wireless communications device being external to an equipment.” The Examiner conceded that Mintz does not teach this limitation, and cited Ma to make up for the acknowledged deficiencies of Mintz. (Final Office Action, page 3.) Assuming arguendo that Ma teaches a processor that is external to an equipment, the Examiner has nonetheless failed to state, and cannot state, a prima facie case of obviousness with respect to claim 1 at least because (1) the Examiner has not shown a motivation to combine Mintz and Ma and none exists, and (2) not only has the Examiner failed to show a reasonable expectation of success for the proposed combination of Mintz and Ma, but Mintz and Ma are in fact incapable of combination.

- a. **Neither Mintz nor Ma provides any motivation for their proposed combination.**

The Examiner, citing Ma, asserted that it would have been obvious to combine Mintz and Ma “for the purpose of allowing the measured information to be shared throughout the system.” (Final Office Action, page 3.) However, the Examiner pointed to no teaching or suggestion for such a motivation in any of the prior art of record. Moreover, none exists. As noted above, Ma teaches no more than a “quality measurement unit that conveniently attaches to equipment under test identifies and evaluates quality of recovered test signals communicated from a remote device.” (Ma, Abstract; emphasis added.) Thus, Ma does not teach the sharing of information throughout any “system,” and therefore could not possibly suggest the benefits of such a teaching, if such a

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teaching were even present in any of the prior art of record. At most Ma, like Mintz, teaches receiving raw data and making a measurement based thereon, but does not teach or suggest sharing the raw data throughout any "system."

Moreover, even if Ma did teach the benefits of sharing information throughout some undefined system, Ma would still fail to provide motivation for a combination with Mintz to achieve the limitation of "the processor and the wireless communications device being external to an equipment." The Examiner has pointed to no statement in Ma or any other prior art of record teaching the benefits of "the processor and the wireless communications device being external to an equipment." Nor has the Examiner even stated a motivation for one of ordinary skill to have practiced this claim limitation. Further, even if, as alleged, Ma teaches a processor and a wireless communications device external to an equipment, this fact would not mean that Ma provided any reason at all for one of ordinary skill to have added this limitation to Mintz, and indeed, Ma provides no such reason.

For at least the foregoing reasons, claim 1, and also claims 2-11, 30-31, and 35 depending therefrom, are all in condition for allowance.

b. Mintz and Ma are incapable of combination.

Mintz teaches using a base station to measure the power and bit error rate in channels between the base station and a mobile terminal. (E.g., Mintz, col. 4, lines 12-16.) As noted above, Mintz's base station makes measurements of power and bit error rate based on signals received from the remote terminal. (Mintz, col. 4, lines 12-14.) Ma teaches evaluating multimedia test signals received from a remote device using a quality measurement unit attached to equipment under test. (Ma, Abstract.) The Examiner does not explain how Mintz could be modified with Ma's alleged processor and wireless communications device, and therefore has failed to state a prima facie case of obviousness at least by failing to state a case for a reasonable expectation of success in combining Mintz and Ma.

Moreover, Mintz and Ma simply could not be combined. The only element of Ma that could stand in for the recited processor "external to an equipment" is Ma's remote data storage unit (RSDU). (See Ma, Fig. 1.) The RSDU serves the function of communicating a test signal to an equipment under test. (Ma, Abstract.) However, Mintz has no "equipment under test." Mintz is

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directed simply to determining power levels and bit error rates at various points in a wireless network. (Mintz, col. 1, lines 10-14.) Upon receiving a "link balance" command, Mintz's base station receives and measures power and bit error rates on an up-link channel. (Mintz, col. 4, lines 12-14.) There is no place in the structure disclosed by Mintz for another processor, much less the processor and wireless communication device allegedly disclosed by Ma that responds to a test signal. Mintz would have no way of receiving Ma's test signal, and moreover Ma's test signal would be meaningless to Mintz's mobile station that receives and then measures raw data as described above. Providing Mintz with processed, as opposed to raw, data, could not have been successful because Mintz could have made no use of the processed data – even if Ma taught or suggested such a limitation, which it does not. In short, one of ordinary skill would not have reasonably expected success in attempting to modify Mintz with the alleged teachings of Ma.

For at least these further reasons, claim 1, and also claims 2-11, 30-31, and 35 depending therefrom, are all in condition for allowance.

3. Applicants' claims depending from claim 1 are separately patentable over the alleged combination of Mintz and Ma.

a. Claim 4

Claim 4 recites that "the processor is further programmed to configure the measurement device." The Examiner asserted that Mintz teaches this claim limitation. (Final Office Action, page 3.) However, Ma simply happens to use the word "configured" in explaining that the aforementioned RDSU "is configured as a mailbox." (Ma, col. 4, line 6.) Ma contains no disclosure regarding how the RDSU is so configured, and in any event the RDSU is not contended by the Examiner to represent, and does not represent, a measurement device. For any of these independent reasons, claim 4 is separately in condition for allowance over the prior art of record.

b. Claim 10

Claim 10 recites that "the measurement device is selected from the group consisting of a gauge and a transducer." The Examiner asserted that Ma teaches this limitation. (Final Office Action, page 4.) However, the cited portion of Ma is totally irrelevant to any use of a gauge or a transducer, instead discussing the synchronization of a local quality measurement unit with a test signal. (Ma, col. 4, lines 11-23.) Neither Mintz nor Ma contain any teaching or suggestion to use

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either a gauge or a transducer. Thus, claim 10 is clearly separately patentable over the prior art of record.

c. Claim 11

Claim 11 requires that “the wireless communications device is selectively attached to at least one second measurement output device.” The Examiner acknowledged that the combination of Mintz and Ma “fails to disclose” this limitation. (Final Office Action, page 8.) However, the Examiner contended that “the above limitation would not render the claims patentable over the applied references because it merely depends on the number of measuring devices one would like in the system without changing the scope of the invention in the applied reference.” Applicants respectfully disagree, inasmuch as selectively attaching the wireless communication device to at least one second measurement output device is a clear structural limitation of the invention of claim 11. The Examiner’s assertion that this limitation would have been obvious “for the purpose of obtaining more data about the system” has absolutely no basis in the cited prior art, nor is it even clear that this alleged benefit would be applicable in the context of the claimed invention, because it is wholly unclear what is the “system” to which the Examiner has referred. Accordingly, claim 11 is clearly separately patentable over the prior art of record for at least any of the foregoing independent reasons.

d. Claim 30

Claim 30 recites that “the measurement relates to a component.” The Examiner asserted that Ma teaches a measurement relating to an RF signal, which is a component in air. (Office Action, page 4.) However, even if an RF signal met the requirements of a “component,” which it does not, and even if air were a kind of equipment, such as a vehicle, which it is not, an RF signal cannot be considered a “component” of air at least because an RF signal is at most transmitted through air, or many other media, including a vacuum. Applicants respectfully submit that the components of air are gases such as oxygen and carbon dioxide, not electromagnetic waves such as RF signals. For at least these reasons, claim 30 is separately patentable over the prior art of record.

e. Claim 31

Claim 31 requires that “the equipment is a vehicle.” The Examiner contended that Ma teaches the recited vehicle because Ma allegedly teaches monitoring an RF signal carried through

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air, asserted to be a vehicle. (Office Action, page 4.) However, as noted above regarding claim 30, air cannot be considered a vehicle for an RF signal at least because an RF signal can be transmitted through a vacuum, i.e., an electromagnetic wave such as an RF signal does not require a "vehicle." Moreover, the vehicle recited in claim 31 is limited to a vehicle that is an "equipment," which air plainly is not. For at least these reasons, claim 31 is separately patentable over the prior art of record.

B. Ground of Rejection No. 2: Independent Claims 12 and 26 And The Claims Depending Therefrom (Claims 13-25, 32-34, 27-29 and 37) Are Patentable.

Independent claims 12 and 26 stand rejected as allegedly obvious over Heinonen in view of Ma. However, for at least the following reasons, the Examiner has failed to state, and cannot maintain, a prima facie case of obviousness regarding claims 12 and 26. Accordingly, claims 12 and 26, and all claims depending therefrom, are in condition for allowance.

1. The prior art of record fails to teach or suggest a "at least one sensor that provides at least one output related to a component in an equipment."

The Final Office Action (pages 5 and 6-7) contended that Heinonen teaches the limitation of claims 12 and 26 of "at least one sensor that provides at least one output related to a component," but fails to address the requirement that the recited component is "a component in an equipment." Further, Heinonen teaches at most a sensor providing output related to a component of the environment (e.g., Heinonen, para. 35). Plainly, Heinonen's environmental components do not providing any teaching or suggestion of "a component in an equipment." Nor does Ma, allegedly combined with Heinonen to meet the limitations of claim 1, provide any teaching or suggestion of "at least one sensor that provides at least one output related to a component in an equipment." Indeed, Ma in no way teaches or suggests a sensor at all, instead simply teaching the analysis of multimedia signals in a network. (E.g., Ma, col. 1, lines 6-8.)

For at least the foregoing reason, claim 12, and also claims 13-25 and 32-34 depending therefrom, are in condition for allowance. Similarly, claim 26, and also claims 27-29 and 37, are in condition for allowance.

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2. Heinonen and Ma cannot be combined to suggest “a remote device that is external to the equipment.”

Claim 12 includes the requirement of “a remote device that is external to the equipment.” Claim 26 recites that “the first processor is external to the equipment.” The Examiner conceded that Heinonen does not teach these limitations, and cited Ma to make up for the acknowledged deficiencies of Heinonen. (Final Office Action, page 5.) Assuming arguendo that Ma teaches a remote device or a processor that is external to an equipment, the Examiner has nonetheless failed to state a prima facie case of obviousness with respect to claims 12 and 26 at least because (1) the Examiner has not shown a motivation to combine Heinonen and Ma, and (2) not only has the Examiner failed to show a reasonable expectation of success for the proposed combination of Heinonen and Ma, but Heinonen and Ma are in fact incapable of combination.

a. Neither Heinonen nor Ma would have provided any motivation for their proposed combination.

The Examiner, citing Ma, asserted that it would have been obvious to combine Heinonen and Ma “for the purpose of allowing the measured information to be shared throughout the system.” (Final Office Action, page 5.) However, for the reasons stated above regarding the alleged motivation to combine Mintz and Ma, this motivation is irrelevant to Applicants’ claims, and in fact motivation to combine Heinonen and Ma is lacking for at least the reasons stated above regarding the alleged motivation to combine Mintz and Ma.

For at least the foregoing reasons, claim 12, and also claims 13-25 and 32-34 depending therefrom, are in condition for allowance. Similarly, claim 26, and also claims 27-29 and 37, are in condition for allowance.

b. Heinonen and Ma are incapable of combination.

Heinonen teaches using a cellular radio system to transfer environmental measurements to a central equipment. (Heinonen, Abstract.) Ma, in contrast, as noted above, teaches a quality measurement unit that receives and evaluates the quality of test signals from a remote device. (Ma, Abstract.) The Examiner does not explain how Heinonen’s system for transmitting environmental measurements could be modified with Ma’s system for measuring the quality of received test signals, much less how Heinonen could be modified with Ma’s alleged processor and wireless communications device. The Examiner therefore has failed to state a prima facie case of

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obviousness at least by failing to state a case for a reasonable expectation of success in combining Heinonen and Ma.

Moreover, Heinonen and Ma simply could not be combined. The only element of Ma that could stand in for the recited processor of claim 12 is Ma's remote data storage unit (RSDU). (See Ma, Fig. 1.) The RSDU serves the function of communicating a test signal to an equipment under test. (Ma, Abstract.) However, Heinonen has no "equipment under test;" Heinonen is directed to determining environmental phenomena and has nothing at all to do with measuring or testing equipment. (E.g., Heinonen, Abstract.) There is simply no place in the structure disclosed by Heinonen for another processor, much less the processor and wireless communication device allegedly disclosed by Ma, which serve to transmit a test signal. Providing Heinonen with processed, as opposed to raw, data, could not have been successful because Heinonen could have made no use of the processed data – even if Ma taught or suggested such a limitation, which it does not. Thus, Heinonen and Ma could not have been combined by one of ordinary skill, nor would such combination, if possible, have resulted in the structure required by claim 1.

For at least the foregoing reasons, claim 12, and also claims 13-25 and 32-34 depending therefrom, are in condition for allowance. Similarly, claim 26, and also claims 27-29 and 37, are in condition for allowance.

3. Applicants' dependent claims are separately patentable over the alleged combination of Heinonen and Ma.

a. Claims 13-18

The Examiner rejected claims 13-18 as allegedly unpatentable over the combination of Heinonen and Ma, but conceded that "the combination . . . fails to specifically disclose the limitations of claims 13-18." (Final Office Action, page 9.) However, without any support in the prior art of record, and after groundlessly asserting that the limitations of claims 13-18 do not change "the scope of the invention," the Examiner asserted that the combination of Heinonen and Ma would have made the limitations of claims 13-18 obvious "for the purpose of having more ways to measure signals." (*Id.*)

The Examiner appears to have taken Official Notice that the benefit of "having more ways to measure signals" would have been well known to one of ordinary skill in the art. (*Id.*) Appellants respectfully disagree with this assertion. Further, Applicants seasonably requested support for the

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taking of Official Notice, as provided by 37 CFR 1.104(d)(2) and MPEP § 2144.04. (See Request for Reconsideration After Final Action dated December 19, 2005, at 15.) However, such support was never provided, and the rejection of claims 13-18 should be reversed for at least this reason.

Further, Applicants disagree that claims 13-18 are not structurally limiting with respect to the claimed invention. Initially, the fact that the Examiner has not addressed each of these distinct claims individually shows that the Examiner has not met her burden of showing that these claims are not separately patentable. Moreover, each of the claims imposes a structural limitation on the claimed invention. To take just one example, claim 13 requires that "the processor is further programmed to convert the input to a measurement." Applicants respectfully submit that requiring the processor to be so programmed structurally limits the claims invention. Claims 14-18 impose similar structural limitations not found in the prior art of record.

For at least the foregoing reasons, claims 13-18 are separately in condition for allowance.

b. Claim 22

Claim 22 requires that "the measurement device is selected from the group consisting of a gauge and a transducer." As discussed above regarding claim 10, Ma does not teach or suggest this limitation. Nor does Heinonen teach or suggest a measurement device selected from the group consisting of a gauge or transducer, contrary to the assertion of the Examiner (Office Action, page 6.) Indeed, Heinonen is entirely silent with respect to the devices used to make the disclosed environmental measurements. Accordingly, Claim 22 is in condition for allowance at least for these reasons.

c. Claim 24

Claim 24 requires that "the processor is further programmed to receive configuration information from the remote device." As discussed above regarding claim 4, Ma does not teach or suggest this transferring configuration information. Further, contrary to the Examiner's unexplained assertion (Office Action, page 6), Heinonen does not teach the foregoing limitation. Indeed, the cited portion of Heinonen teaches no more than sending a connection request to a base station, and transferring data to a base station. Accordingly, Claim 24 is in condition for allowance at least for these reasons.

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d. Claims 27 and 32

Claims 27 and 32 require that "the component is a component in a vehicle." Claims 27 and 32 are separately patentable at least for the reasons discussed above regarding claims 30 and 31.

C. Ground of Rejection No. 3: Dependent Claim 2 Is Separately Patentable.

Claim 2 stands rejected over the alleged combination of Mintz, Ma, and Heinonen. Claim 2 requires that "the measurement represents at least one output from a sensor." As noted above, there is no motivation to combine Mintz and Ma, nor is there any expectation that Mintz and Ma could be successfully combined. Further, as noted above, there is no motivation to combine Heinonen and Ma, nor is there any expectation that Heinonen and Ma could be successfully combined. Applicants respectfully submit that there is even less justification for the proposed combination of Mintz, Ma, and Heinonen.

The Examiner appears to have taken Official Notice that "it is well known to utilize sensors in wireless environments." (Final Office Action, page 8.) Applicants respectfully disagree with this assertion. Further, Appellants seasonably requested support for the taking of Official Notice, as provided by 37 CFR 1.104(d)(2) and MPEP § 2144.04. (See Request for Reconsideration After Final Action dated December 19, 2005, at 15.) However, such support was never provided, and the rejection of claim 2 should be reversed for at least this reason.

Moreover, it would make no sense to combine Heinonen with Mintz and Ma "to observe environmental phenomena" (see Final Office Action, page 8), inasmuch as Mintz and Ma have absolutely nothing to do with measuring or observing environmental phenomena. Further, not only would there have been no motivation to combine Mintz and Ma with Heinonen, there is no reasonable expectation that it would have been possible to do so. Significantly, the Examiner has proffered no proposal for how the sensors disclosed by Heinonen (para. 35) could be implemented in the context of either Mintz or Ma. And in fact, because Mintz and Ma do not utilize sensors at all, and have no structure for receiving sensor data, the proposed combination of Mintz, Ma, and Heinonen is clearly impossible.

For at least the foregoing reasons, claim 2 is separately in condition for allowance.

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CONCLUSION

In view of the foregoing arguments, Appellants respectfully submits that the pending claims are novel over the cited references. The Examiner's rejections of all pending claims are improper because the prior art of record does not teach or suggest each and every element of the claimed invention. In view of the above analysis, a reversal of the rejections of record is respectfully requested of this Honorable Board.

It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account No. 18-0013, under Order No. 65856-0054, from which the undersigned is authorized to draw. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136(a) is hereby made, the fee for which should be charged against the aforementioned account.

Dated: *March 17, 2006*

Respectfully submitted,

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VIII. CLAIMS APPENDIX

Pursuant to 37 CFR § 41.37(c)(vii), the following listing provides a copy of the claims involved in the appeal.

1. A system for viewing measurements remotely, comprising:
a processor that is connected to a wireless communications device, the processor and the wireless communications device being external to an equipment;
wherein the processor is programmed to retrieve at least one measurement from at least one measurement device via the wireless communications device.
2. The system of claim 1, wherein the measurement represents at least one output from a sensor.
3. The system of claim 1, further comprising a user interface connected to the processor.
4. The system of claim 1, wherein the processor is further programmed to configure the measurement device.
5. The system of claim 1, wherein the processor is further programmed to perform at least one of: displaying data that has been retrieved from the measurement device, analyzing data that has been retrieved from the measurement device, and storing data that has been retrieved from the measurement device.
6. The system of claim 1, wherein the processor is included in a computer that is selected from the group consisting of a custom-designed computing device, a desktop personal computer, a laptop personal computer, a handheld computer, and a java-enabled portable computing device.
7. The system of claim 1, further comprising a wireless network.

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8. The system of claim 7, wherein the wireless communications device sends signals to the measurement device via the wireless network.
9. The system of claim 7, wherein the measurement device sends signals to the wireless communications device via the wireless network.
10. The system of claim 1, wherein the measurement device is selected from the group consisting of a gauge and a transducer.
11. The system of claim 1, wherein the wireless communications device is selectively attached to at least one second measurement output device.
12. A system comprising:
at least one sensor that provides at least one output related to a component in an equipment;
and
at least one measurement device comprising a processor programmed to (1) receive as an input the output from the sensor and (2) wirelessly communicate with a remote device that is external to the equipment.
13. The system of claim 12, wherein the processor is further programmed to convert the input to a measurement.
14. The system of claim 12, wherein the input comprises at least one analog signal.
15. The system of claim 14, wherein the analog signal is in a range from zero to approximately 5 volts.

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16. The system of claim 14, wherein the analog signal is in a range from approximately four to approximately twenty milliamps.
17. The system of claim 12, wherein the input comprises at least one digital signal.
18. The system of claim 12, wherein the processor is further programmed to use a scaling function.
19. The system of claim 12, further comprising a wireless network.
20. The system of claim 19, wherein the remote device sends signals to the measurement device via the wireless network.
21. The system of claim 19, wherein the measurement device sends signals to the remote device via the wireless network.
22. The system of claim 12, wherein the measurement device is selected from the group consisting of a gauge and a transducer.
23. The system of claim 12, wherein the measurement device comprises a second wireless communications device that is capable of being attached to at least one second measurement output device.
24. The system of claim 12, wherein the processor is further programmed to receive configuration information from the remote device.
25. The system of claim 12, wherein the remote device is selected from the group consisting of a custom-designed computing device, a desktop personal computer, a laptop personal computer, a handheld computer, or a Java-enabled portable computing device.

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26. A system for viewing measurements remotely, comprising:
a first processor that is connected to a wireless communications device;
at least one sensor that provides at least one output related to a component in an equipment;
and
at least one measurement device comprising a second processor programmed to (1) receive an input from the sensor and (2) wirelessly communicate with the first processor,
wherein the first processor is external to the equipment and is programmed to retrieve measurements from the measurement device via the wireless communications device.
27. The system of claim 26, wherein the component is a component in a vehicle.
28. The system of claim 26, wherein the at least one sensor is a plurality of sensors.
29. The system of claim 26, wherein the at least one measurement device is a plurality of measurement devices.
30. The system of claim 1, wherein the measurement relates to the component.
31. The system of claim 1, wherein the equipment is a vehicle.
32. The system of claim 12, wherein the component is a component in a vehicle.
33. The system of claim 12, wherein the at least one sensor is a plurality of sensors.
34. The system of claim 12, wherein the at least one measurement device is a plurality of measurement devices.

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35. The system of claim 1, wherein the at least one measurement device is selectively detachably connected to a component in the equipment.

36. The system of claim 12, wherein the at least one measurement device is selectively detachably connected to the component.

37. The system of claim 26, wherein the at least one measurement device is selectively detachably connected to the component.

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IX. EVIDENCE APPENDIX

(Not applicable.)

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X. RELATED PROCEEDINGS APPENDIX

(Not applicable.)